Writ Petition No. 584 (S/S) 2001
(Old No. 51083 of 1999)

Smt. Deepa Tewari- …….Petitioner

Versus

State Bank of India and 2 others- ……..Respondents.

Hon'ble M.M. Ghildiyal, J.

The petitioner who is wife of late Sri Manoj Tewari, ex-employee of State Bank of India, has filed present petition for a direction to respondent-Bank to appoint the petitioner on compassionate ground.

Heard Sri Manoj Tewari learned Counsel for the petitioner, Sri Ashish Joshi learned Counsel for the Bank and Sri G.S. Bisht learned Senior Standing Counsel Union of India.

Petitioner's husband was an employee of State Bank of India, branch Nanakmatta. He died on 03.02.1996. The petitioner is postgraduate and is fully qualified to be appointed as clerk/cashier in the State Bank of India and she applied for her appointment on 20.02.1996 on compassionate ground. She sent several representations to this effect. However, no heed was paid towards it by the respondents and ultimately, on 14.04.1998 the Bank informed the petitioner that her request for appointment on compassionate ground has been turned-down by the Union of India. The petitioner has stated that she has never received any communication from Union of India and, as such, she has not annexed the alleged order of Union of India passed in the matter. Again the petitioner represented and the matter of providing appointment to the petitioner was strongly recommended by the State Bank of India to Union of India. However, Union of India, after reviewing the matter on 17.06.1999, has passed order and turned-down the request of the petitioner and the proposal sent by the SBI for appointment of the petitioner. This order too, was not communicated to the petitioner by Union of India. Since, the order was not in possession of the petitioner and it was filed along with the counter affidavit of the Bank, the petitioner moved an amendment application in the writ petition with a prayer calling for the record and

to quash the order of Govt. of India, which is a communication and not the original order by which the request of petitioner has been turned-down for appointment on compassionate ground. The Union of India in-spite-of time granted has not produced the original order by which the request of petitioner has been turned-down. Letter dated 17.06.1999 is a letter of communication which reads "that your request for appointment on compassionate ground has turned-down by Union of India". Learned Counsel for the petitioner has stated that the SBI itself, was competent to pass order for appointment to the petitioner or to reject the claim of petitioner and it was not necessary for the SBI to send the proposal to the Union of India. He has further submitted that Union of India has not passed any speaking order and has turned-down the request of petitioner illegally and arbitrarily.

Learned Counsel for the Bank Sri Ashish Joshi has submitted that the request of petitioner was recommended by the SBI and the proposal was sent before Union of India. However, Union of India has turned-down the proposal for appointment of the petitioner on compassionate ground. The Union of India was granted time twice for filing counter affidavit and to produce order passed by the Ministry of Finance rejecting the prayer and proposal sent by SBI. Learned Senior Standing Counsel Union of India has submitted that he has sent the communication but has not received any reply so far. He has further requested that he may be granted time to file counter affidavit. Twice time was granted to the Senior Standing Counsel to file counter affidavit. The petitioner who is seeking appointment because of the death of her husband, the Union of India can't be given further time. Learned Counsel for the respondent-Bank Sri Ashish Joshi has submitted that the rules provides that in case there is any departmental enquiry pending against the deceased, the matter of compassionate appointment to the dependants shall be referred to Union of India. Learned Counsel for the petitioner Sri Manoj Tewari has submitted that there is clause of deviation, which, itself, provides that deviation from the provisions of the scheme may be considered by the Managing Director and Group Executive or by prior approval

of the Government. The submission of the learned Counsel for the petition is that in view of the clause, the SBI is fully empowered to consider the case of the petitioner. The fact has been denied by learned Counsel for the Bank Sri Ashish Joshi. In any case, it is not disputed that the petitioner's husband was reinstated in service on 23.02.1995 after awarding punishment. I find force in the argument raised by learned Counsel for the petitioner firstly, in view of the fact that the petitioner's husband was reinstated and no proceedings was pending against the petitioner's husband, the Bank was competent enough to decide the matter and secondly the Union of India was not right in rejecting claim without giving any reason in view of the fact that SBI has recommended the case of the petitioner.

Even in the case the matter was necessary to be referred to Union of India, in view of the fact that disciplinary enquiry was initiated against the petitioner's husband, while rejecting the claim of petitioner after taking into account of her eligibility as well as the recommendations made by the Union of India. Union of India has passed none speaking order.

For the reasons stated above I direct the respondent to decide the case of petitioner afresh in view of the observations made in the body of the judgment within a period of six weeks from the date of producing a certified copy of this order.

The writ petition is allowed. Orders dated 14.04.1998 passed by SBI and that of 17.06.1999 passed by Union of India are quashed. No order as to costs.

(M.M. Ghildiyal, J.)

June 12,2003:
NCM: